

BEFORE THE FEDERAL ELECTION COMMISSION

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In the Matter of)	
)	
MUR 6895)	DISMISSAL AND CASE
Inhofe Victory Committee 2014)	CLOSURE UNDER THE CELA
and Timothy A. Koch as treasurer)	ENFORCEMENT PRIORITY
Friends of Jim Inhofe Committee)	SYSTEM
and Timothy A. Koch as treasurer)	
Fund for a Conservative Future)	
and Timothy A. Koch as treasurer)	

GENERAL COUNSEL'S REPORT

Under the Enforcement Priority System, the Commission uses formal scoring criteria as a basis to allocate its resources and decide which matters to pursue. These criteria include without limitation an assessment of the following factors: (1) the gravity of the alleged violation, taking into account both the type of activity and the amount in violation; (2) the apparent impact the alleged violation may have had on the electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in potential violations of the Federal Election Campaign Act of 1971, as amended (the "Act"), and developments of the law. It is the Commission's policy that pursuing relatively low-rated matters on the Enforcement docket warrants the exercise of its prosecutorial discretion to dismiss cases under certain circumstances or, where the record indicates that no violation of the Act has occurred, to make no reason to believe findings. The Office of General Counsel has

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1 determined that MUR 6895 should not be referred to the Alternative Dispute Resolution
2 Office.¹

3 For the reasons set forth below, the Office of General Counsel recommends that the
4 Commission find no reason to believe that Respondents Inhofe Victory Committee 2014 and
5 Timothy A. Koch in his official capacity as treasurer ("Inhofe Victory") violated 52 U.S.C.
6 § 30116(f) and dismiss the allegation that Inhofe Victory violated 52 U.S.C. § 30104(b)(5)
7 and 11 C.F.R. § 104.3(b)(4). The Office of General Counsel also recommends that the
8 Commission find no reason to believe that Respondents Friends of Jim Inhofe Committee and
9 Timothy A. Koch in his official capacity as treasurer ("Inhofe Committee") and Respondents
10 Fund for a Conservative Future and Timothy A. Koch in his official capacity as treasurer
11 ("FCF") violated the Act and Commission regulations.

12 Complainant Rebecca West ("Complainant") alleges that Respondents may have
13 accepted an excessive in-kind contribution in the form of security provided by two individuals
14 employed by the Sheriff's Office of Kiowa County, Oklahoma. Compl. at 2-4.² According to
15 the Complainant, Inhofe Victory held a campaign fundraiser on September 5 and 6, 2014. *Id.*
16 at 2. The complaint further alleges that the event featured "an 'Old World' pigeon shoot, an
17 event at which workers threw live pigeons into the air" for attendees to shoot. *Id.* Two
18 individuals, who appeared to be officers with the Kiowa County Sheriff's Office, provided

¹ The EPS rating information is as follows: Complaint Filed: October 29, 2014. Joint Response from Inhofe Victory 2014, Friends of Jim Inhofe, and Fund for a Conservative Future Filed: December 19, 2014.

² The Complainant explains that Inhofe Victory is a "joint fundraising committee authorized and formed to benefit" both the Inhofe Committee, Senator Inhofe's authorized campaign committee, and FCF, Inhofe's leadership political action committee. *Id.* at 2. See also amended Statement of Organization for Inhofe Victory, filed on April 22, 2014 at 2 (designating committee as a joint fundraising representative for the Inhofe Committee and FCF).

1 security for the event, including checking wrist bands given to fundraiser attendees, and
2 reportedly used their official government vehicles and wore their uniforms as well. *Id.* at 2-3.
3 The Complainant asserts that, aside from a single payment disclosed by Inhofe Victory to one
4 of the officers,³ there is “no evidence that the State or county were reimbursed for these
5 expenses.” *Id.* at 3. Accordingly, the Complainant suggests that uncompensated services
6 allegedly provided by county officials in connection with the Inhofe fundraiser may have
7 constituted an in-kind contribution that exceeded the per-election limit for the 2014 election
8 cycle.

9 In a joint response filed by Inhofe Victory, the Inhofe Committee, and FCF,⁴
10 Respondents state that two officers of the Kiowa County Sheriff's Office, Ofcrs. Farrington
11 and Tosh, attended the event as “private security,” they were off-duty, and Inhofe Victory
12 paid a total of \$300 for their services. *Id.* at 1-3; *see also id.*, Ex. D (Affidavit of Inhofe
13 campaign manager Rusty Appleton) (“Appleton Affidavit”), ¶ 6. According to Respondents,
14 Officer Farrington represented that he would keep \$150 and give the remaining \$150 to
15 Officer Tosh. *See* Joint Resp. at 2, n.1; *see also id.*, Appleton Affidavit, ¶ 7. Additionally,
16 the Respondents maintain that the complaint omits information that People for the Ethical
17 Treatment of Animals (“PETA”) had allegedly requested the Sheriff's Office to “be present at

³ The Complainant does not state the amount that she believes was paid by Inhofe Victory for security.

⁴ According to Respondents, the complaint is based “upon a series of assumptions and second hand evidence provided by a member of the animal rights group Showing Animals Respect and Kindness (‘SHARK’).” Joint Resp. at 2.

1 and investigate the campaign event for alleged animal rights abuses.” Joint Resp. at 2-3;
2 *see also id.*, Exs. B and C.⁵

3 The Act defines a “contribution” as including any “gift, subscription, loan, advance, or
4 deposit of money, or anything of value made by any person for the purpose of influencing any
5 election for Federal office . . .” 52 U.S.C. § 30101(8)(A). The Commission’s regulations
6 interpret the term “anything of value” to include all in-kind contributions. *See* 11 C.F.R.
7 § 100.52(d)(1).

8 Political committees must report the name and address of each person to whom they
9 make expenditures or other disbursements aggregating more than \$200 per election cycle for
10 authorized committees, as well as the date, amount, and purpose of such payments. 52 U.S.C.
11 § 30104(b)(5); *see also* 11 C.F.R. § 104.3(b)(4). “Purpose” means a brief statement or
12 description of why the disbursement was made. 11 C.F.R. § 104.3(b)(4)(i)(A).

13 The record reflects that Inhofe Victory did not receive an in-kind contribution from
14 any entity in the form of free services from the officers. Rather, on September 19, 2014, more
15 than a month before the complaint was filed, Inhofe Victory paid Officer Farrington \$300 for
16 providing security at the fundraiser. *See* Inhofe Victory’s 2014 October Quarterly Report,
17 filed on October 15, 2014, at 28. Further, the information suggests that the officers were off-
18 duty at the time, so there is no indication that the Kiowah County Sheriff’s Office provided
19 Respondents with anything of value. However, given that Inhofe Victory intended that its

⁵ Respondents argue that even if Officers Farrington and Tosh had not been compensated for their services, their presence at the Inhofe fundraiser would have been within the scope of their official duties under state laws and, as such, would not have constituted a contribution. Joint Resp. at 3. Because the officers were wearing concealed weapons, they were required by state law to wear their official uniforms. *Id.*

1 payment be split between the two officers, it should have arguably clarified for the public
2 record that \$150 of the \$300 disbursement was intended for Officer Tosh.

3 Although the Committee appears to have paid for the officers' services, it may not
4 have properly reported the disbursement to them. Given this relatively technical violation, the
5 Office of General Counsel recommends that the Commission exercise its prosecutorial
6 discretion and dismiss the allegation that Inhofe Victory Committee 2014 and Timothy A.
7 Koch in his official capacity as treasurer, violated 52 U.S.C. § 30104(b)(5) and 11 C.F.R.
8 § 104.3(b)(4). See *Heckler v. Chaney*, 470 U.S. 821 (1985). This Office also recommends
9 that the Commission find no reason to believe that Inhofe Victory Committee 2014 and
10 Timothy A. Koch in his official capacity as treasurer violated 52 U.S.C. § 30116(f). In
11 addition, we recommend that the Commission find no reason to believe that Friends of Jim
12 Inhofe Committee and Timothy A. Koch in his official capacity as treasurer and Fund for a
13 Conservative Future and Timothy A. Koch in his official capacity as treasurer violated the Act
14 and Commission regulations, as the record reflects no violation by either of these committees.
15 Finally, we recommend that the Commission approve the attached Factual and Legal Analysis
16 and the appropriate letters, and close the file as to all respondents.

17 **RECOMMENDATIONS**

- 18 1. Dismiss the allegation that Inhofe Victory Committee 2014 and Timothy A. Koch
19 in his official capacity as treasurer violated U.S.C. § 30104(b)(5) and 11 C.F.R.
20 § 104.3(b)(4);
21
22 2. Find no reason to believe that Inhofe Victory Committee 2014 and Timothy A.
23 Koch in his official capacity as treasurer violated 52 U.S.C. § 30116(f);
24
25 3. Find no reason to believe that Friends of Jim Inhofe Committee and Timothy A.
26 Koch in his official capacity as treasurer violated the Federal Election Campaign
27 Act of 1971, as amended, and Commission regulations;
28

4. Find no reason to believe that Fund for a Conservative Future and Timothy A. Koch in his official capacity as treasurer violated the Federal Election Campaign Act of 1971, as amended, and Commission regulations;
5. Approve the attached Factual and Legal Analysis and the appropriate letters; and
6. Close the file as to all respondents.

Daniel A. Petalas
Acting General Counsel

Kathleen M. Guith
Acting Associate General Counsel
for Enforcement Division

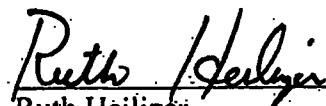
6.7.16

Date

BY:



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